

HOUSE BILL 395

J2

(2lr0567)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and
Environmental Affairs* —

Introduced by **Delegate Hammen (Chair, Health and Government Operations
Committee)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Nursing – Sunset Extension and Revisions**

3 FOR the purpose of continuing the State Board of Nursing in accordance with the
4 provisions of the Maryland Program Evaluation Act (sunset law) by extending
5 to a certain date the termination provisions relating to the statutory and
6 regulatory authority of the Board; requiring that an evaluation of the Board and
7 the statutes and regulations that relate to the Board be performed on or before
8 a certain date; requiring the Board to submit a certain annual report to the
9 General Assembly; specifying the data that must be included in a certain
10 annual report; altering a certain requirement related to the application for a
11 license to practice registered nursing or licensed practical nursing; altering a
12 certain requirement related to the application for certification as a certified
13 nursing assistant; altering the membership of a certain advisory committee;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 requiring a certain advisory committee to meet at least once during a certain
 2 time period; requiring the ~~Board~~ Department of Health and Mental Hygiene, in
 3 consultation with the Department of Budget and Management, to contract with
 4 an independent entity to perform a certain management and personnel study to
 5 be completed on or before a certain date; requiring the Department of Health
 6 and Mental Hygiene and the Department of Budget and Management jointly to
 7 develop specifications for a certain solicitation; requiring the Department of
 8 Budget and Management to oversee a certain independent entity; requiring that
 9 the costs of a certain study be paid from the Board of Nursing Fund; requiring
 10 the Department of Budget and Management, on or before a certain date, to report
 11 to certain committees of the General Assembly on the results of a certain study;
 12 requiring the Board to report to certain committees of the General Assembly on
 13 the implementation and use of certain sanctioning guidelines on or before a
 14 certain date; requiring the Board to report to certain committees of the General
 15 Assembly on the implementation of certain recommendations; requiring the
 16 report to include certain information and a certain plan; making a stylistic
 17 change; and generally relating to the State Board of Nursing.

18 BY repealing and reenacting, with amendments,
 19 Article – Health Occupations
 20 Section 8–205(a)(8), 8–304, 8–6A–05(c)(2), 8–6A–13, and 8–802
 21 Annotated Code of Maryland
 22 (2009 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, without amendments,
 24 Article – State Government
 25 Section 8–403(a)
 26 Annotated Code of Maryland
 27 (2009 Replacement Volume and 2011 Supplement)

28 BY repealing and reenacting, with amendments,
 29 Article – State Government
 30 Section 8–403(b)(40)
 31 Annotated Code of Maryland
 32 (2009 Replacement Volume and 2011 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 34 MARYLAND, That the Laws of Maryland read as follows:

35 **Article – Health Occupations**

36 8–205.

37 (a) In addition to the powers and duties set forth elsewhere in this title, the
 38 Board has the following powers and duties:

1 (8) To submit [an annual report] to the Governor, [and] THE
2 Secretary, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
3 ARTICLE, THE GENERAL ASSEMBLY, AN ANNUAL REPORT THAT INCLUDES THE
4 FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:

5 (I) THE NUMBER OF INITIAL AND RENEWAL LICENSES AND
6 CERTIFICATES ISSUED;

7 (II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL
8 HISTORY RECORDS CHECKS RESULTS RECEIVED;

9 (III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR
10 RENEWAL LICENSURE OR CERTIFICATION DUE TO POSITIVE CRIMINAL HISTORY
11 RECORDS CHECKS RESULTS;

12 (IV) THE NUMBER OF INDIVIDUALS DENIED LICENSURE OR
13 CERTIFICATION DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY
14 RECORDS CHECK;

15 (V) THE NUMBER OF NEW COMPLAINTS RECEIVED;

16 (VI) THE NUMBER OF COMPLAINTS CARRIED OVER FROM
17 YEAR TO YEAR;

18 (VII) THE MOST COMMON GROUNDS FOR COMPLAINTS; AND

19 (VIII) THE NUMBER AND TYPES OF DISCIPLINARY ACTIONS
20 TAKEN BY THE BOARD;

21 8-304.

22 To apply for a license to practice registered nursing or licensed practical
23 nursing, an applicant shall:

24 (1) [(i)] Submit to a criminal history records check in accordance
25 with § 8-303 of this subtitle; [or

26 (ii) Have completed a criminal history records check in
27 accordance with § 8-303 of this subtitle through another state board of nursing within
28 the 5 years preceding the date of application;]

29 (2) Submit to the Board:

30 (i) An application on the form that the Board requires;

1 (ii) Written, verified evidence that the requirement of item (1) of
2 this subsection is being met or has been met; and

3 (iii) Written, verified evidence of completion of the appropriate
4 education requirements of § 8–302 of this subtitle; and

5 (3) Pay to the Board the application fee set by the Board.

6 8–6A–05.

7 (c) (2) Subject to paragraph (1) of this subsection, an applicant for
8 certification as a certified nursing assistant shall submit to the Board:

9 (i) [1.] A criminal history records check in accordance with §
10 8–303 of this title; [or

11 2. Evidence of completion of a criminal history records
12 check in accordance with § 8–303 of this title through another state board of nursing
13 within the 5 years preceding the date of application;] and

14 (ii) On the form required by the Board, written, verified
15 evidence that the requirement of item (i) of this paragraph is being met or has been
16 met.

17 8–6A–13.

18 (a) The Board shall appoint an advisory committee consisting of at least [14]
19 15 members appointed by the Board.

20 (b) Of the [14] 15 committee members:

21 (1) Six shall be nursing assistants:

22 (i) One shall be an acute care nursing assistant;

23 (ii) One shall be a home care nursing assistant;

24 (iii) One shall be a long–term care nursing assistant;

25 (iv) One shall be an adult medical day care nursing assistant;

26 (v) At least one of the nursing assistant members shall be a
27 member of a union; and

28 (vi) One shall be an independent contractor;

- 1 (2) Three shall be registered nurses:
- 2 (i) One shall be an acute care registered nurse;
- 3 (ii) One shall be a home care registered nurse; and
- 4 (iii) One shall be a long-term care registered nurse;
- 5 (3) One shall be an administrator from a licensed health care facility;
- 6 (4) One shall be a licensed practical nurse;
- 7 (5) One shall be an individual who teaches a nursing assistant course;
- 8 (6) One shall be a consumer member who has received care, or has a
- 9 family member who has received care from a nursing assistant; [and]
- 10 (7) One shall be a representative of the Department; **AND**
- 11 **(8) ONE SHALL BE A CERTIFIED MEDICATION TECHNICIAN.**
- 12 (c) The Board shall appoint an alternate for each of the three nursing
- 13 assistant members in the event that the nursing assistant member is unable to
- 14 discharge the duties of the committee.
- 15 (d) An advisory committee member shall serve a term of 4 years.
- 16 **(E) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE A MONTH.**
- 17 **[(e)] (F)** The advisory committee shall:
- 18 (1) Evaluate training programs and make recommendations for
- 19 approval by the Board;
- 20 (2) Develop and recommend regulations to enforce the provisions of
- 21 this subtitle;
- 22 (3) Evaluate candidates as required and recommend action to the
- 23 Board;
- 24 (4) Review investigations of complaints against nursing assistants or
- 25 medication technicians and make recommendations to the Board for disciplinary
- 26 action;
- 27 (5) Keep a record of its proceedings; and

1 (6) Submit an annual report to the Board.

2 8–802.

3 Subject to the evaluation and reestablishment provisions of the Program
4 Evaluation Act, the provisions of this title and of any rule or regulation adopted under
5 this title shall terminate and be of no effect after July 1, [2013] **2023**.

6 **Article – State Government**

7 8–403.

8 (a) On or before December 15 of the 2nd year before the evaluation date of a
9 governmental activity or unit, the Legislative Policy Committee, based on a
10 preliminary evaluation, may waive as unnecessary the evaluation required under this
11 section.

12 (b) Except as otherwise provided in subsection (a) of this section, on or before
13 the evaluation date for the following governmental activities or units, an evaluation
14 shall be made of the following governmental activities or units and the statutes and
15 regulations that relate to the governmental activities or units:

16 (40) Nursing, State Board of (§ 8–201 of the Health Occupations Article:
17 July 1, [2012] **2022**);

18 SECTION 2. AND BE IT FURTHER ENACTED, That:

19 (a) (1) The ~~State Board of Nursing~~ Department of Health and Mental
20 Hygiene, in consultation with the Department of Budget and Management, shall
21 contract with an independent entity to perform a management and personnel study to
22 determine the necessity and allocation of additional staff.

23 (2) The Department of Health and Mental Hygiene and the Department
24 of Budget and Management jointly shall develop the specifications for the solicitation of
25 the contract required under paragraph (1) of this subsection.

26 (3) (i) The Department of Budget and Management shall oversee
27 the independent entity that is performing the management and personnel study
28 required under paragraph (1) of this subsection.

29 (ii) The independent entity that is performing the management
30 and personnel study required under paragraph (1) of this subsection shall report
31 directly to the Department of Budget and Management regarding the study.

32 (4) The costs of the management and personnel study required under
33 paragraph (1) of this subsection shall be paid from the Board of Nursing Fund
34 established under § 8–206 of the Health Occupations Article.

1 (b) The study required under subsection (a) of this section shall:

2 ~~(i)~~ ~~1~~ (1) include an analysis of the workload of the Board related to
3 its licensure, certification, and complaint resolution functions; and

4 ~~2~~ (2) consider at a minimum;

5 (i) the number of applications and complaints received by the
6 Board;

7 (ii) the number of employees assigned to each step of each
8 function; and

9 (iii) the amount of time an application or complaint remains at
10 each step of each function;

11 ~~(ii)~~ (3) include an analysis of the impact on staffing needs of:

12 ~~1~~ (i) the online processing of licenses and certificates; and

13 ~~2~~ (ii) the movement to biennial renewal of licenses; and

14 ~~(iii)~~ (4) make recommendations on the most effective use of existing
15 staff, including cross training and reassignment.

16 (c) The study required under subsection (a) of this section shall be completed
17 on or before October 1, 2013.

18 (d) On or before December 1, 2013, the Department of Budget and
19 Management shall report to the Senate Education, Health, and Environmental Affairs
20 Committee and the House Health and Government Operations Committee, in
21 accordance with § 2-1246 of the State Government Article, on the results of the
22 management and personnel study required under subsection (a) of this section.

23 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
24 2012, the State Board of Nursing shall report to the Senate Education, Health, and
25 Environmental Affairs Committee and the House Health and Government Operations
26 Committee, in accordance with § 2-1246 of the State Government Article, on the
27 implementation and use of the sanctioning guidelines required by Chapters 533 and
28 534 of the Acts of the General Assembly of 2010.

29 SECTION 4. AND BE IT FURTHER ENACTED, That:

30 (a) On or before October 1, 2013, the State Board of Nursing shall report to
31 the Senate Education, Health, and Environmental Affairs Committee and the House
32 Health and Government Operations Committee, in accordance with § 2-1246 of the

1 State Government Article, on the implementation of nonstatutory recommendations
2 contained in the sunset evaluation report dated October 2011.

3 (b) The report required under subsection (a) of this section shall include:

4 (1) information on how the Board has improved its use of data
5 collection and tracking for the application and complaint resolution processes; and

6 (2) the Board’s plan to implement the findings of the personnel study
7 required under Section 2 of this Act.

8 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 June 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.